

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

SAMUEL ROOSEVELT JONES #364868,

Plaintiff,

Case No. 2:19-CV-49

v.

HON. GORDON J. QUIST

C. LAWRY, et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff refused to participate in his deposition. Defendants subsequently filed a “Rule 37 Motion to Dismiss Plaintiff’s Case for Refusal to Participate in Discovery and Request to Recover Deposition Fees.” (ECF No. 64.) On October 21, 2020, U.S. Magistrate Judge Maarten Vermaat issued a Report and Recommendation (R & R), recommending that the Court deny Defendants’ motion to dismiss but grant Defendants costs in the amount of \$97.40. (ECF No. 74.) Plaintiff has filed an objection. (ECF No. 77.)

Upon receiving objections to the R & R, the district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). This Court may accept, reject, or modify any or all of the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). After conducting a de novo review of the R & R, the objections, and the pertinent portions of the record, the Court concludes that the R & R should be adopted.

Although Plaintiff makes three objections, each objection is based on Federal Rule of Civil Procedure 30(a)(2)(B), which requires a party to obtain leave of court “if the deponent is confined

in prison.” Plaintiff argues that Defendants never obtained leave of court to take his deposition. As Plaintiff notes in his objections, the Case Management Order provided: “Defendants are hereby authorized to take Plaintiff’s deposition pursuant to Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure.” (ECF No. 47.) Thus, the Court already authorized Defendants to take Plaintiff’s deposition pursuant to Federal Rule of Civil Procedure 30(a)(2)(B). Defendants did not need to file another motion requesting leave of court.

ACCORDINGLY, IT IS HEREBY ORDERED that the October 21, 2020, Report and Recommendation (ECF No. 74) is **adopted** as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants’ Rule 37 Motion to Dismiss Plaintiff’s Case for Refusal to Participate in Discovery and Request to Recover Deposition Fees (ECF No. 64) is **granted in part** and **denied in part**. Defendants are awarded costs in the amount of \$97.40 for Plaintiff failing to attend his deposition.

Dated: November 6, 2020

/s/ Gordon J. Quist

GORDON J. QUIST
UNITED STATES DISTRICT JUDGE